IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO. 2103 OF 2004
IN
CRIMINAL **REVISION APPLICATION NO. 180 OF 2004**

Shri. Iranna M. Mashanwar ... Applicant

Vs.

Sou. Ambika Iranna Mashanwar & Ors. Respondents

None for Applicant.

CORAM : F.I. REBELLO &
ANOOP V. MOHTA,JJ.
DATED : AUGUST 25, 2004

P.C. :

1. This is an application for condonation of delay in preferring Criminal Revision Application which is numbered as Cri. Revision Application No. 180 of 2004.

2. We find from the records that in so far as Cri.Revision Application No. 180 of 2004 and Cri. Appln No. 2685 of 2004 application for stay, the learned Division Bench of this court has directed notice to be issued.

3. In the present Application NO. 2103 of 2004 no

notice has been issued. The delay is of 689 days. None present for the applicant when the matter is called out. The cause shown for condoning the delay is that though the Judgment was passed on 14.3.2002, he came to know about the judgement in September, 2003 and that he could not contact his advocate immediately for filing revision application. It is also set out that he resides in a small village known as Devar Hippargi, Taluka : Sindagi, District : Vijapur in the State of Karnataka and he is a poor farmer. That he could not manage to pay the cost of Rs.2,000/- ordered against him by order dated 31.1.2002. As his village is far away from the City of Pune, he could not come to meet his advocate to take further steps. That he is illiterate and does not acquire sufficient education to understand the gravity of his absence in the family court. This would amount sufficient cause for preferring Criminal Revision Application.

4. The Respondent wife along with minor child had filed application under Section 125 of Cr.P.C. for maintenance which came to be disposed of by order of 14.3.2002. The evidence of Respondent No. 1 was recorded. The Petitioner herein did not

participate in the proceedings as can be seen from the order of the learned Family Court and on 13.1.2002 his advocate has moved an application that the respondent will remain present on the next date and that it is essential that the opponent's evidence be recorded. The learned Judge gave an opportunity but at the same time directed the petitioner to pay cost of Rs.2,000/-. That was not paid and thereafter came the judgement which is the subject matter of the present petition. In the say filed to the main petition it was contention of the petitioner that he had divorced the respondent as per custom and that thereafter he has married one Girija.

5. The question really is whether on the facts of this case, the petitioner has made out a case of sufficient cause for condoning the delay. The Petitioner engaged advocate. Petitioner was aware of the order passed of paying cost and the consequences of not paying the cost. The Petitioner had stated that thereafter some time in the year 2003 he came to know about the order. The amount awarded is for the maintenance of the respondent and minor child. Considering this, we do not find this to be fit case to condone the

delay. In the light of that, application for condonation of delay rejected.

(F.I. REBELLO,J.)

(ANOOP V. MOHTA,J.)